



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

DAS:CMM  
F. #2013R00948

*271 Cadman Plaza East  
Brooklyn, New York 11201*

November 3, 2014

By ECF and Fed Ex Delivery

Richard Haley, Esq.  
Haley, Weinblatt & Calcagni, LLP  
1601 Veterans Memorial Highway, Suite 425  
Islandia, New York 11749

Re: United States v. Philip Kenner  
Criminal Docket No. 13-CR-607 (JFB)

Dear Mr. Haley:

The undersigned is firewall counsel in the above-captioned case. Enclosed herein please find one portable hard drive and four CDs containing copies of the electronic materials seized on November 13, 2013 during the execution of the search warrant at defendant Philip Kenner's home in Scottsdale, Arizona.<sup>1</sup> Specifically, please find: (1) a portable hard drive containing documents that firewall counsel has determined to be "Not Privileged," Bates stamped PRIV-PK000001; (2) a CD containing documents that firewall counsel has identified as "Privileged," Bates stamped PRIV-PK000002; (3) a CD containing documents that are "Unclear," that is, it is unclear from the face of the document whether a privilege exists, Bates stamped PRIV-PK000003; (4) a CD containing a clean version of documents to be redacted,<sup>2</sup> Bates stamped PRIV-PK000004; and (5) a CD containing firewall counsel's proposed redactions to the clean version of the documents to be redacted, Bates stamped PRIV-PK000005.

In addition to the electronic material, firewall counsel also reviewed one redweld of documents. These documents have, likewise, been reviewed and categorized as

---

<sup>1</sup> On March 24, 2014, the government provided Kenner with two (2) one-terabyte portable hard drives, which contained imaged copies of the electronic evidence that were recovered from the defendant's home on November 13, 2013, pursuant to the search warrant.

<sup>2</sup> These documents largely consist of non-privileged communications attached to or forwarded with privileged communications.

“Not Privileged,” “Privileged,” and “To Be Redacted.” Accordingly, enclosed please find the following documents: (1) documents identified as “Not Privileged,” Bates stamped PRIV-PK000006-000078; (2) documents identified as “Privileged,” Bates stamped PRIV-PK000079-000168; and (3) one document in both a clean and redacted form, Bates stamped PRIV-PK000169 and PRIV-PK000170, respectively.

Please be advised that, to date, none of this material has been provided to the investigative team. Firewall counsel intends to disclose to the investigative team on December 5, 2014, materials described above, Bates stamped PRIV-PK000001, PRIV-PK000003, PRIV-PK000005, PRIV-PK000006-000078 and PRIV-PK000170 unless, before that date, the defendant asserts a valid basis to find the materials privileged.

Should you have any questions regarding the enclosed materials, please do not hesitate to contact me.

Very truly yours,

LORETTA E. LYNCH  
United States Attorney

By: /s/  
Catherine M. Mirabile  
Assistant U.S. Attorney  
(718) 254-6055

cc: By ECF (without enclosures)

Clerk of the Court (JFB)

James Miskiewicz  
Saritha Komatireddy  
Assistant United States Attorneys